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8	BEFORE THE
9	BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS DEPARTMENT OF CONSUMER AFFAIRS
10	STATE OF CALIFORNIA
11	In the Matter of the Accusation Against:
12	SAM CANCIO Case No. PT-2011-1680
13	Hanford, CA 93230
14	Psychiatric Technician License No. PT 33970 A C C U S A T I O N
15	Respondent.
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18	Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") alleges:
19	<u>PARTIES</u>
20	1. Complainant brings this Accusation solely in her official capacity as the Executive
21	Officer of the Board of Vocational Nursing and Psychiatric Technicians ("Board"), Department of
22	Consumer Affairs.
23	2. On or about November 13, 2007, the Board issued Psychiatric Technician License
24	Number PT 33970 to Sam Cancio ("Respondent"). The license was in full force and effect at all
25	times relevant to the charges brought herein. The license expired on January 31, 2013, and has
26	not been renewed.
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STATUTORY PROVISIONS

3. Business and Professions Code ("Code") section 4520 states:

Every licensed psychiatric technician under this chapter may be disciplined as provided in this article. The disciplinary proceedings shall be conducted by the board in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

- 4. Code section 4545 states, in pertinent part, that the Board may renew an expired license at any time within four years after the expiration.
 - 5. Code section 4521 states, in pertinent part:

The board may suspend or revoke a license issued under this chapter for any of the following reasons:

- (a) Unprofessional conduct, which includes, but is not limited to, any of the following:
- (5) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that the use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.
- (6) Be convicted of a criminal offense involving the falsification of records concerning prescription, possession, or consumption of any of the substances described in paragraphs (4) and (5), in which event the record of the conviction is conclusive evidence of the conviction. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degrees of discipline.
- (f) Conviction of any offense substantially related to the qualifications, functions, and duties of a psychiatric technician, in which event the record of the conviction shall be conclusive evidence of the conviction. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline.
 - 6. Code section 118(b) provides:

The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

COST RECOVERY

7. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime)

8. Respondent is subject to discipline under Code section 4521(f), in that on or about January 20, 2012, in the case of *People v. Samuel Cancio*, (Super. Ct. Kings County, Case No. 11CM3446), Respondent was convicted by the Court on his plea of guilty of violating Vehicle Code section 23152(b) (driving a vehicle while having 0.08 percent and more, by weight, of alcohol in his blood), with an enhancement of Vehicle Code section 23578 (a blood alcohol content of .15 percent or higher), a misdemeanor. The crime is substantially related to the qualifications, functions, or duties of a Psychiatric Technician. The circumstances of the crime were that on or about September 23, 2011, Respondent drove a vehicle with a blood alcohol level of .22%.

SECOND CAUSE FOR DISCIPLINE

(Use of Alcohol in a Dangerous or Injurious Manner)

9. Respondent is subject to discipline under Code section 4521(a), on the grounds of unprofessional conduct as defined in Code section 4521(a)(5), in that on or about September 23, 2011, Respondent used an alcoholic beverage to an extent or in a manner dangerous or injurious to himself, and the public, when he operated a vehicle while under the influence of alcohol, as more particularly set forth above in paragraph 8.

THIRD CAUSE FOR DISCIPLINE

(Conviction Involving the Consumption of Alcohol)

10. Respondent is subject to discipline under Code section 4521(a) on the grounds of unprofessional conduct as defined in Code section 4521(a)(6), in that on or about January 20,